

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

| | | |
|------------------------------|---|---------------------------------------|
| HOUSTON DIE CASTING COMPANY, |) | |
| |) | CASE NO. 03CV1033 |
| Plaintiff, |) | |
| |) | JUDGE JOHN R. ADAMS |
| vs. |) | |
| |) | |
| EATON CORPORATION, |) | <u>PLAINTIFF'S TRIAL BRIEF</u> |
| |) | |
| Defendant. |) | |
| |) | |

Pursuant to the Court's February 17, 2004 Trial Order, Plaintiff, Houston Die Casting Company, submits its Trial Brief.

I. Statement of the Facts:

This case is about a claim for breach of contract. The Plaintiff, Houston Die Casting ("Houston"), is a die casting company. Houston's headquarters is located in McCallen, Texas; however, it owned and operated a subsidiary plant in Mexico called Diecastomex. Eaton Corporation ("Eaton") is a manufacturer of a variety of products for the aerospace, hydraulic, electrical and trucking industries.

This case involves a contract between Houston and Eaton. Houston was to make parts for the hydraulic division of Eaton. The contract was entered into in March 2000. It was for a term of five years. Specifically, Houston was to manufacture certain aluminum castings that Eaton was going to use to make hydraulic pumps.

The contract obligated Eaton to provide the die cast molds, gauging equipment and machine tooling on a consignment basis and Houston was responsible for purchasing the specific machinery to machine the parts. This was agreed to so Houston could move into production

quickly. Some of the machinery and equipment could only be used to make Eaton parts. Houston claims that the cost of this equipment and machinery is over \$950,000. Eaton agreed to purchase approximately 115,000 parts annually under the contract.

A company called Marketwise Associates (“Marketwise”) is also a party to the contract. Marketwise assisted the parties in putting the contract together. Under the contract, Eaton was to use the services of Marketwise to perform quality surveillance on the products; to assist in time line management; and to promote improvement concepts. (See Article 3 of Contract). Marketwise was to use its agent, QAS, to actually perform the part inspection and audits of Houston’s manufacturing processes at the Houston plant in Mexico. (*Id.*)

The contract was signed in March 2000. The die molds were sent to the plant in Mexico in the Spring of 2000. In June 2000, Eaton requested that the plant return the die molds and instead order new dies to be made at Eaton’s expense. Houston claims this was a breach of the contract. Eaton disagrees.

The process of having a new die made took many months. The new die was not installed at the plant until late Fall 2000. Various issues arose with the new die and the manufacturing process and these were not resolved until the Spring of 2001 when the first samples were submitted. They were accepted by Eaton.

In July 2001, Eaton issued a purchase order for parts. Eaton identified problems with the parts that Houston shipped to it. In August 2001, the parties had a quality meeting at the Eaton plant that was using the parts. At that meeting, Eaton announced that the part had to be the same as the part made by its other supplier. Houston claims that Eaton had added new specifications for the part that were not part of the contract and that these new specifications were being used to reject the parts. Houston claims that this was a breach of the contract.

By the end of November 2001, Houston and Eaton agreed on certain specifications for the part. Houston claims these specifications were new and different from those outlined in the contract.

In early 2002, Houston shipped small lots of parts to Eaton. These parts were rejected by Eaton. Eaton terminated the contract in August 2002. Eaton based its termination on what it claims are various material breaches of the contract by Houston, including the failure to make timely deliveries and the failure to meet Eaton's quality standards as agreed to in the contract. Eaton claims it had "cause" (as defined in the contract) to terminate. Houston claims that Eaton did not have "cause" and breached the contract by terminating it without cause, and by committing other acts during the course of the contract.

Eaton has a claim for the return of the die and tooling that it paid to have made.

II. Discussion of Controlling Law:

Because both Houston and Eaton are "merchants" as that term is defined by statute, the contract at issue is governed by the Uniform Commercial Code as adopted in Ohio. R.C. §1302.01(A)(5). As merchants, Houston and Eaton were required to act in good faith in their performance or enforcement of the contract. R.C. 1301.09; UCC § 1-203. The "good faith" standard required Houston and Eaton to contract honestly in fact and observe reasonable commercial standards of fair dealing in the trade. R.C. §1302.01(A)(2); UCC § 2-103(1)(b). Honesty in fact does not exist when the actions at issue are "commercially unjustifiable." *Master Chem. Corp. v. Inkrott*, 55 Ohio St. 3d 23, 563 N.E.2d 26, 31 (Ohio 1990); *accord Needham v. Provident Bank*, 110 Ohio App. 3d 817, 675 N.E.2d 514, 523 (Ohio Ct. App. 1996); *Jim White Agency Co. v. Nissan Mot. Corp. in U.S.A.*, 126 F.3d 832, 834 (6th Cir. 1997) (applying Ohio law).

If Houston is successful on its breach of contract claim, it is entitled to damages. Ohio law allows for the recovery of reliance damages and expectation damages. Reliance damages place the party in the same position it would have been in had the contract not been made. *White v. Nemastil* (1985), 29 Ohio App. 3d 1, 17 (8th Dist.) Restatement of the Law 2d, Contracts (1981) §§ 344, 349.

In the alternative, Houston may recover expectation damages. Expectation damages are designed to place a party in the position it would have been in had the contract been fully performed. *Nilavar v. Osborn* (2000), 137 Ohio App. 3d 469, 494; citing Restatement of the Law 2d, Contracts (1981), 102-103, Section 344.

In this case, the parties had a five year contract and the pricing for the product was a term of the contract. Accordingly, if Houston proves that Eaton breached the contract, it may be awarded its expectation damages. These may include lost profits. *Charles R. Combs Trucking, Inc. v. International Harvester Co.* (1984), 12 Ohio St. 3d 241, 466 N.E.2d 883.

Eaton asserts that Houston may not recover any claims because it waived its right to seek damages. Under Ohio law, a waiver occurs when a party voluntarily relinquishes its rights under the contract and the other party changes its position in substantial reliance upon the waiver. *Chubb v. Ohio Bur. of Workers' Comp.* (1998), 81 Ohio St.3d 275, 279; 1998 Ohio 628. In addition, the party claiming that there was an implied waiver of contractual terms has the burden of proving by a preponderance of the evidence that a waiver, through clear and unequivocal acts or conduct, did occur. *Directory Concepts, Inc. v. Smith* (July 4, 2004), 2004 Ohio 3666; 2004 Ohio App. LEXIS 3306.

Eaton claims that Houston failed to mitigate its damages. The test for mitigation under Ohio law is whether Houston made reasonable efforts under the facts and circumstances to lessen

its damages caused by Eaton's breach of the contract. *Kanistros v. Holeman* (February 18, 2005), 2005 Ohio 660; 2005 Ohio App. LEXIS 665 at P36; citing *Chandler v. General Motors Acceptance Corp.* (1980), 68 Ohio App.2d 30, 426 N.E.2d 521. The burden of proving a failure to mitigate damages lies with the party asserting the defense. *Hines v. Riley* (1998), 129 Ohio App. 3d 379, 717 N.E.2d 1133.

If Eaton is successful on its counterclaim for breach of contract for Houston's failure to return the die and tooling, then the amount of Eaton's damages may be set off from the amount awarded to Houston. Ohio recognizes that either party is entitled to a right to a set off of one judgment against another. *Krause v. Krause* (1987), 35 Ohio App. 3d 18, 19, 518 N.E.2d 1221, citing *Barbour v. National Exchange Bank* (1893), 50 Ohio St. 90, 98, 33 N.E. 542.

However, Houston has asserted a defense to Eaton's counterclaim that it had a right to hold the die and tooling after the contract was terminated. Ohio Rev. Code §1333.31 creates a lien on the equipment arising out of any improvement made to the equipment. If Houston proves that Eaton owes Houston money either for improvements made to the die and tooling, or for money spent improving the die and tooling, then Houston has an enforceable lien in the equipment.

Further, Houston claims that it is excused from not returning the die and tooling to Eaton because Eaton frustrated the purpose of the contract, by, among other things, not providing the proper tooling and adding new specifications to the contract. Frustration of purpose is defined:

Where, after a contract is made, a party's principal purpose is substantially frustrated without his fault by the occurrence of an event, the nonoccurrence of which was a basic assumption on which the contract was made, his remaining duties to render performance are discharged, unless the language or the circumstances indicate the contrary.

Am. Premier Underwriters v. Marathon Pipe Line Co. (2002), 2002 Ohio 1299; 2002 Ohio App.

LEXIS 1292, citing *Printing Indus. Assoc. of Northeastern Ohio, Inc. v. Graphic Arts Int'l Union, Local No. 546* (N.D. Ohio 1984) 584 F. Supp. 990, 999. In order to prove frustration of purpose, Houston must establish that (1) the divergence did in fact occur and the non-occurrence of the frustrating event was a basic assumption on which the contract was made; (2) the purpose frustrated was a principal purpose of that contract; and (3) the frustration was substantial. *See Printing Industries Assoc., supra.* at 1110; citing Restatement (Second) of Contracts § 265.

III. Witnesses:

Plaintiff may call the following witnesses at trial but not necessarily in the order listed below:

Harold Gluckman – may testify to the formation and performance of the parties under the contract and damages suffered by Plaintiff as a result of the termination by Eaton.

Martha Gluckman – may testify to certain financial issues, damages and acceptance of parts by Eaton and Houston and Eaton's performance under the contract.

Ralph Johnson – may be called as if on cross-examination to testify on issues relating to the formation and performance of the parties under the contract and matters related to Eaton's dealings with Hemaq and other Mexican suppliers, as well as facts related to Vickers and Nebraska Die Casting and the operation of Eaton and the Hutchinson plant.

Gary Wiseman – may be called to testify about the formation of the contract, performance under the contract by both parties and QAS and Marketwise, Vickers and Nebraska Die Casting, and Hemaq and its connection to the contract. He may also, subject to the Court's ruling, testify about Eaton's Mexican Sourcing Project.

Robert Turner – will testify as plaintiff's expert on damages.

Enrique Louis Garfias – will testify through designated deposition testimony.

Marvin Miller – will testify through designated deposition testimony.

Gerry Cossa – will testify through designated deposition testimony.

Satya Kothari – will testify through designated deposition testimony.

James Verega – will testify about Houston's manufacturing and machining processes and various interactions he had with Eaton employees and executives and other matters relating and pertaining to the contract at issue.

Kunle Idonije – will testify to all matters relating to the termination of the contract.

Plaintiff reserves the right to cross examine all Eaton witnesses who testify.

IV. Evidentiary Issues:

Plaintiff does not anticipate any evidentiary issues in addition to those raised by Defendants in their motions in limine. However, Plaintiff reserves the right to raise evidentiary objections upon receipt of Defendant's exhibit list and throughout trial.

V. Proposed Voir Dire Questions:

Plaintiff's Proposed Voir Dire Questions are as follows:

1. The Plaintiff is a company owned by Harold Gluckman. Mr. Gluckman was born in South Africa but moved to the United States over twenty five years ago and is a U.S. citizen. Is there anyone who cannot be fair and impartial towards Mr. Gluckman because of where he was born?
2. Houston Die Casting operated a plant in Mexico. Is there anyone who believes that it is bad for U.S. companies to operate plants in Mexico?
3. Does anyone have any connection to or experience with Houston Die Casting Company or Diecastomex?
4. Does anyone have any connection to or experience with Eaton Corporation?
5. What is each juror's occupation and if married, what is their spouse's occupation?
6. Has anyone served on a jury before? If yes, was a good or bad experience and why?

7. Has anyone been involved in a lawsuit? If yes, what was the nature and circumstances?

VI. Exhibits:

In addition to introducing various aluminum castings as exhibits, Plaintiff may use the following documents as exhibits at trial:

| <i>Plaintiff's Trial Exhibit No.</i> | <i>Deponent</i> | <i>Depo. Ex. No.</i> | <i>Description</i> | <i>Date of Depo.</i> |
|--|-----------------|------------------------------|---|----------------------|
| 1 | Gluckman, H. | 1 | Complaint (trial by jury demanded) | 05/04/04 |
| 2 | Gluckman, H. | 2 | 8/22/02 e-mail from H. Gluckman to K. Idonije demanding termination settlement | 05/04/04 |
| 3 | Gluckman, H. | 3 | 8/21/02 Letter from Eaton to Dicastomex and Marketwise Associates terminating sourcing contract between Eaton and Dicastomex | 05/04/04 |
| 4 | Gluckman, H. | 4 | 5/2/00 Purchase Order # 16052 from HDC to Okuma America Co. | 05/04/04 |
| 5 | Gluckman, H. | 5 | 4/17/00 Loan Agreement between Houson and Texas State Bank | 05/04/04 |
| 6 | Gluckman, H. | 6 | 9/7/00 e-mail from H. Gluckman to G. Wiseman re Texas State bank repayments | 05/04/04 |
| 7 | Gluckman, H. | 7 | 1/27/01 e-mail from G. Wiseman to D. Crowe re adjusted CNC costs on Hsg. Machining at lower volumes | 05/04/04 |
| 8 | Gluckman, H. | 8 | Recap on interest & payments on Bank Notes for Okuma Machines & Other Equipment | 05/04/04 |
| 9 | Gluckman, H. | 9 | 7/23/02 - Eaton Claim | 05/04/04 |
| 10 | Gluckman, M. | 10 | 7/19/00 fax from H. Gluckman to Karl Hurston requesting wire transfer of funds directly to Houston's bank to expedite the manufacture of die casting tooling | 05/05/04 |
| 11 | Gluckman, M. | 11 | 5/9/00 Houston Invoice 28782 to Eaton for dual tapping machine and mounting fixtures - \$137,232.00; 6/12/00 Houston Invoice 29075 to Eaton for 50% down with purchase order for one multiple station trim fixture to trim part 682937 and 50% due with purchase order mold maker - \$89,758.50; Houston Invoice 29074 to Eaton for 50% down with purchase order, multiple station trim fixture to trim part 422290; and 50% down with purchase order - \$89,758.50 | 05/05/04 |
| 12 | Gluckman, M. | 12 | Houston Invoices to Eaton | 05/05/04 |
| 13 | Gluckman, M. | 13 | 7/13/00 Fax from M. Gluckman to R. Johnson providing Houston's banking information for wire transfers | 05/05/04 |
| 14 | Gluckman, M. | 14 | 12/13/01 Houston invoice 33430 for Vickers #682988 | 05/05/04 |
| 15 | Gluckman, M. | 15 | Houston Invoices to Eaton | 05/05/04 |
| 16 | Gluckman, M. | 16 | Houston Credit Memo and Invoices to Eaton | 05/05/04 |
| 17 | Gluckman, M. | 17 | 3/6/02 Eaton Supplier Adjustment Report; Shipping Authorization; Return Material Authorization; Bill of Lading; Deviated Material Report; Scrap Report; Tag | 05/05/04 |

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| 18 | Gluckman, M. | 18 | 7/24/02 Detailed Inventory History Report | 05/05/04 |
| 19 | Gluckman, M. | 19 | 12/31/02 Detailed Customer History | 05/05/04 |
| 20 | Gluckman, M. | 20 | 12/31/02 Customer Invoice History; Customer Payment History; 8/21/02 Letter from Eaton to Dicastomex and Marketwise Associates terminating sourcing contract between Eaton and Dicastomex | 05/05/04 |
| 21 | Crowe | 21 | 4/29/01 e-mail from G. Wiseman to D. Crowe re: Dicastomex needs to first get PPAP approval and then establish a minimum porosity standard | 05/25/04 |
| 22 | Crowe | 22 | 2/9/01 e-mail from G. Wiseman to R. Johnson re: possible scenarios for pricing on Dicastomex PVE housings manufactured for Eaton | 05/25/04 |
| 23 | Crowe | 23 | 11/28/00 e-mail from G. Wiseman to D. Crowe re: suggestion to group the NAC Eaton work into machines groups | 05/25/04 |
| 24 | Crowe | 24 | Timeline of actions | 05/25/04 |
| 25 | Cossa | 25 | Undated handwritten notes CARE 02004, P/N 422308, date issued 2/21/02; with IQP Action Plan | 05/25/04 |
| 26 | Cossa | 26 | 3/9/01 e-mail from H. Gluckman to G. Cossa with attached IQP Action Plan requesting Cossa to take control | 05/25/04 |
| 27 | Crowe | 27 | 3/23/01 Central Die Casting Volumes | 05/25/04 |
| 28 | Cossa | 28 | 2/22/02 Eaton Problem with Leakers with 2/27/02 email from M. Miller to J. Cossa and H. Gluckman re 8D Corrective action for Dicastomex attaching form to use to track progress with corrective action | 05/25/04 |
| 29 | Cossa | 29 | 2/27/02 email from M. Miller to J. Cossa and H. Gluckman re 8D Corrective action for Dicastomex attaching form to use to track progress with corrective action | 05/25/04 |
| 30 | Cossa | 30 | 3/20/02 Memo from G. Cossa and G. Cruz (in spanish) | 05/25/04 |
| 31 | Cossa | 31 | 1/25/01 Memo from L. Garfias to R. Hester and R. Johnson - report on Visit January 24/25, 2001 | 05/25/04 |
| 32 | Cossa | 32 | Summary of Corrective Actions for Eaton Survey Jan. 22 & 23 | 05/25/04 |
| 33 | Garfias | 33 | 12/20/00 Eaton Supplier Performance Standard | 05/26/04 |
| 34 | Garfias | 34 | 10/17/00 e-mail from G. Wiseman to L. Garfias re: incorrect timeline showing production starting in mid-march rather than mid-January | 05/26/04 |
| 35 | Garfias | 35 | Undated notes titled "Experimento 3" (in Spanish) | 05/26/04 |
| 36 | Garfias | 36 | Undated notes titled "Exp 1" (in Spanish) | 05/26/04 |
| 37 | Garfias | 37 | Undated Eaton IQP Action Plan - To Eliminate the Root Cause for Recurring Defects | 05/26/04 |
| 38 | Garfias | 38 | Undated notes titled "Disco 1" | 05/26/04 |
| 39 | Garfias | 39 | 12/9/01 casting print for pump valve housing | 05/26/04 |
| 40 | Garfias | 40 | 12/9/01 casting print for pump valve housing | 05/26/04 |
| 41 | Garfias | 41 | 9/10/01 J. Verega notes titled "Dimensions for Casting Die" | 05/26/04 |
| 42 | Garfias | 42 | 9/7/01 Llenado poor el requisitor (in Spanish) | 05/26/04 |
| 43 | Garfias | 43 | 1/22/01 spreadsheet entitled summary of corrective actions for Eaton Survey | 05/26/04 |
| 44 | Garfias | 44 | 3/15/01 notes from G. Cossa (?) to L. Garfias (?) (in Spanish) | 05/26/04 |
| 45 | Garfias | 45 | 3/15/01 PPAP process level 3 for part number 682988 (casting part number 682937) | 05/26/04 |

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| 46 | Garfias | 46 | 4/13/00 TUV Report on the Review of the Management Documents | 05/26/04 |
| 47 | Garfias | 47 | 4/1/01 e-mail from G. Wiseman to D. Crowe re: need for Dicastomex to work on 1st article PPAP and gaging issues through L. Garfias | 05/26/04 |
| 48 | Garfias | 48 | 4/5/01 e-mail from L. Garfias to J. Moulton, et al., re: request for greater tolerances on part no. 682988 to mach part no. 422308 | 05/26/04 |
| 49 | Garfias | 49 | 4/15/01 from L. Garfias to G. Wiseman re: testing of castings on existing fixtures at Dicastomex | 05/26/04 |
| 50 | Garfias | 50 | 11/6/00 e-mail from J. Verega to H. Gluckman re: notes for runoff of Eaton housing 422308 at Okuma's Charlotte, N.C. facility | 05/26/04 |
| 51 | Garfias | 51 | 12/11/00 e-mail from L. Garfias to R. Johnson attaching timeline reviewed with Dicastomex and presentation prepared by L. Garfias titled "Mexican Team of Suppliers" | 05/26/04 |
| 52 | Garfias | 52 | 4/18/01 e-mail from L. Garfias to R. Garza and H. Gluckman re: necessary corrections to 682937 housing | 05/26/04 |
| 53 | Garfias | 53 | 6/1/01 handwritten notes (in Spanish) | 05/26/04 |
| 54 | Garfias | 54 | 8/3/01 e-mail from G. Hetrick to K. Idonije, L. Garfias and others requesting no further shipments until Eaton checks first shipment | 05/26/04 |
| 55 | Garfias | 55 | 12/18/01 e-mail from L. Garfias to D. Crowe re: request for G. Cossa to call G. Hetrick re: problems with Dicastomex's last shipment | 05/26/04 |
| 56 | Garfias | 56 | 1/7/02 e-mail from G. Wiseman to K. Idonije re: Dicastomex's second lot ok and request that Eaton sort Dicastomex's shipment of 210 pieces quickly | 05/26/04 |
| 57 | Garfias | 57 | 2/27/02 e-mail from G. Wiseman to H. Gluckman re: D. Crowe no longer works at Dicastomex and G. Wiseman and HDC were out of the loop on some issues that Eaton was having as a result of this | 05/26/04 |
| 58 | Garfias | 58 | 4/9/00 e-mail from G. Wiseman to R. Johnson re: summary of Dicastomex meeting at Eaton's Hutchinson plant | 05/26/04 |
| 59 | Garfias | 59 | 10/23/00 e-mail from L. Garfias to G. Wiseman re: Okuma run-off not approved | 05/26/04 |
| 60 | Garfias | 60 | 1/25/01 memorandum from QAS to R. Hester and R. Johnson re: report of L. Garfias's visit to Dicastomex's plant on January 24-25, 2001 | 05/26/04 |
| 61 | Garfias | 61 | 1/29/01 e-mail from M. Carpenter to R. Johnson, J. Moulton, C. Pennegar, R. Hester and others at Eaton re: Dicastomex audit report | 05/26/04 |
| 62 | Garfias | 62 | 2/1/01 e-mail from G. Wiseman to R. Johnson re: request for comments to Dicastomex audit report | 05/26/04 |
| 63 | Garfias | 63 | 3/1/01 e-mail from R. Garza to A. Cervantes re: Okuma run-off | 05/26/04 |
| 64 | Garfias | 64 | 5/12/01 e-mail from G. Wiseman to K. Idonije re: HDC - Eaton program update | 05/26/04 |
| 65 | Garfias | 65 | 7/16/01 e-mail from G. Wiseman to H. Gluckman re: request for assistance from HDC in paying L. Garfias until parties obtain income | 05/26/04 |

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| 66 | Garfias | 66 | 7/31/01 e-mail from G. Wiseman to K. Idonije re: L. Garfias working more closely with G. Hetrick and QAS currently reviewing 450 pieces of 422308 parts produced by HDC | 05/26/04 |
| 67 | Garfias | 67 | 8/3/01 e-mail from G. Hetrick to K. Idonije, L. Garfias and others requesting no further shipments until Eaton checks first shipment | 05/26/04 |
| 68 | Garfias | 68 | 8/3/01 e-mail from G. Wiseman to H. Gluckman re: request for help in paying L. Garfias | 05/26/04 |
| 69 | Garfias | 69 | 8/6/01 e-mail from G. Wiseman to H. Gluckman re: request for update on status of PPAP on part no. 682988 | 05/26/04 |
| 70 | Garfias | 70 | 8/10/01 e-mail from G. Wiseman to D. Crowe and H. Gluckman attaching porosity photos and warning HDC that Eaton production getting nervous because HDC three weeks behind and need good parts soon and confirmation that L. Garfias found some porosity in HDC' | 05/26/04 |
| 71 | Garfias | 71 | 8/14/01 e-mail from J. Moulton to K. Idonije re: Dicastomex's first shipment of 500 PVE housings to Eaton | 05/26/04 |
| 72 | Garfias | 72 | 9/12/01 e-mail from G. Wiseman to K. Idonije re: improvements continue to be made at Dicastomex with visible progress | 05/26/04 |
| 73 | Garfias | 73 | 9/17/01 e-mail from G. Wiseman to L. Garfias re: Dicastomex has one last chance with Eaton to supply acceptable castings as Eaton has been waiting a month for part and Dicastomex could lose all of the Eaton business if another bad lot is shipped | 05/26/04 |
| 74 | Garfias | 74 | 9/26/01 e-mail from H. Gluckman to G. Wiseman re: HDC not responsible for paying anything to L. Garfias that is not authorized as necessary and L. Garfias must obtain HDC approval to stay over at its facilities | 05/26/04 |
| 75 | Garfias | 75 | 9/27/01 e-mail from L. Garfias to G. Hetrick and H. Gluckman re: Dicastomex is working on second die to make same improvements as were performed on the 422290 die and L. Garfias is pleased with results, but some small porosity still remains and request for porosity standard from Eaton | 05/26/04 |
| 76 | Garfias | 76 | 9/27/01 e-mail from L. Garfias to G. Hetrick and H. Gluckman re: Dicastomex is working on second die to make same improvements as were performed on the 422290 die and L. Garfias is pleased with results, but some small porosity still remains and request for porosity standard from Eaton | 05/26/04 |
| 77 | Garfias | 77 | 10/8/01 e-mail from L. Garfias to G. Wiseman and copying D. Crowe re: porosity concerns are real, but Dicastomex has put in place correction for pintle bore sealing surface and porosity in subsequent lots should be reduced to almost nothing | 05/26/04 |
| 78 | Garfias | 78 | 10/8/01 e-mail from L. Garfias to D. Crowe and G. Wiseman re: possible porosity on pintle bore area on first 150 parts and request to ship remaining 300 parts some of which may be rejected due to porosity, but some may be ok to use | 05/26/04 |
| 79 | Garfias | 79 | 11/1/01 e-mail from L. Garfias to H. Gluckman re: QAS attempts to determine porosity criteria | 05/26/04 |

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| 80 | Garfias | 80 | 11/1/01 e-mail from L. Garfias to H. Gluckman re: Eaton's acceptance of some parts with medium porosity and subsequent rejection of parts with the same amount of porosity | 05/26/04 |
| 81 | Garfias | 81 | 12/18/01 e-mail from L. Garfias to D. Crowe re: request that G. Cossa prepare an answer for Eaton as to the discrepancies found in Dicastomex's last shipment to Eaton | 05/26/04 |
| 82 | Garfias | 82 | 2/27/02 e-mail from G. Wiseman to H. Gluckman re: suggestion to L. Garfias that he contact H. Gluckman to see if Dicastomex will compensate QAS for its work and indicating that QAS cannot do more work for Eaton until it is paid to do so | 05/26/04 |
| 83 | Garfias | 83 | 8/22/01 PowerPoint presentation prepared by L. Garfias analyzing the report of Dicastomex's visit to Eaton's Hutchinson plant to review findings of first 500 pieces submitted by Dicastomex | 05/26/04 |
| 84 | Miller | 1 | 4/11/02 e-mail from M. Miller to G. Cossa re: control plan for Eaton part no. 422308 | 06/21/04 |
| 85 | Miller | 2 | 1/22/01 Quality System Assessment for Dicastomex | 06/21/04 |
| 86 | Miller | 3 | 1/22/01 spreadsheet entitled summary of corrective actions for Eaton Survey | 06/21/04 |
| 87 | Miller | 4 | 3/26/01 Quality System Assessment for Dicastomex | 06/21/04 |
| 88 | Miller | 5 | 3/8/01 e-mail from M. Miller to D. Ponsler re: information on Eaton's Mexican Sourcing | 06/21/04 |
| 89 | Miller | 6 | 2/22/02 spreadsheet titled "Eaton Problem with Leakers" | 06/21/04 |
| 90 | Miller | 7 | 4/5/01 e-mail from M. Miller to G. Becker re: Dicastomex supplied with Eaton's supplier performance standards | 06/21/04 |
| 91 | Miller | 8 | 11/1/01 E-mail from M. Miller to I. Kunle, G. Hetrick, J. Watt, S. Kothari, R. Hester, C. Todd re IQP Action Plan from teleconference with Dicastomex on 11/1/01 with attached IQP Plan | 06/21/04 |
| 92 | Miller | 9 | 4/10/02 e-mail from M. Miller to K. Idonije attaching IQP action plan for meeting | 06/21/04 |
| 93 | Miller | 10 | 3/21/01 e-mail from G. Wiseman to K. Cline re: Eaton currently buying and using castings "as is" and molds are not to print | 06/21/04 |
| 94 | Miller | 11 | 10/18/01 e-mail from H. Gluckman to D. Crowe re: conference call with Eaton to move forward with documented plans for improvement with Dicastomex | 06/21/04 |
| 95 | Miller | 12 | 1/26/01 e-mail from M. Miller to C. Pennegar re: Dicastomex's audit results as reviewed by Eaton | 06/21/04 |
| 96 | Miller | 13 | Undated spreadsheet titled "IQP Action Plan - To Eliminated the Root Cause for Recurring Defects" | 06/21/04 |
| 97 | Miller | 14 | Undated spreadsheet titled "Supplement to IQP Action Plan" | 06/21/04 |
| 98 | Miller | 15 | 8/24/01 e-mail from K. Idonije to G. Wiseman questioning why no Dicastomex personnel attending conference call to discuss PPAP plan | 06/21/04 |
| 99 | Miller | 16 | 3/26/01 notes re: Dicastomex meetings with Eaton | 06/21/04 |
| 100 | Verega | 1 | 4/21/04 handwritten notes and drawing | 07/21/04 |

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| 101 | Verega | 2 | 11/6/00 memo from J. Verega to H. Gluckman re runoff of Eaton Housing 422308 at Okuma, Charlotte, N.C. | 07/21/04 |
| 102 | Verega | 3 | 12/6/01 Supplier Performance Standards | 07/21/04 |
| 103 | Verega | 4 | 3/31/01 e-mail from G. Wiseman to D. Crowe, H. Gluckman re sample housings for Phase 2 CNC | 07/21/04 |
| 104 | Verega | 5 | 7/12/01 e-mail from G. Wiseman to B. Gritzewsky re DCMZ remaining issues - boring bars | 07/21/04 |
| 105 | Verega | 6 | 8/15/01 e-mail from G. Wiseman to H. Gluckman, D. Crowe, I. Kunle, R. Hester, G. Becker, etc. re Dicastomex 8-14 meeting at Eaton | 07/21/04 |
| 106 | Verega | 7 | 9/19/01 New Product Introduction Checklist | 07/21/04 |
| 107 | Verega | 8 | 1/28/02 e-mail from G. Wiseman to G. Hetrick requesting update on gage sorting | 07/21/04 |
| 108 | Verega | 9 | 1/30/02 letter from R. Hofmeier to J. Verega re continuous improvement in overall performance of suppliers based on measurements of quality and delivery performance; requesting validation that Houston's corrective action plans have been implemented to prevent the root cause for the defects reported during the last 12 months; requesting that containment actions include a signed copy of results of "product/dock audits"; and requesting action plan to assure ability to meet LPPM goals | 07/21/04 |
| 109 | Verega | 10 | 8/13/01 e-mail from G. Wiseman to H. Gluckman re Eaton visit preparations | 07/21/04 |
| 110 | Verega | 11 | 8/22/01 Report of visit to Hutchinson Plant to review findings in first 500 pieces production lot by L. Enrique Ruiz | 07/21/04 |
| 111 | Verega | 12 | 3/14/02 e-mail from G. Hetrick to M. Miller re: Dicastomex action plan to find leaks in PVE housings | 07/21/04 |
| 112 | Verega | 13 | 7/2/02 e-mail from K. Idonije to G. Wiseman re status on 422308's and DCMX/Eaton | 07/21/04 |
| 113 | Verega | 14 | IQP Action Plan | 07/21/04 |
| 114 | Verega | 15 | 2/20/02 handwritten notes re Eaton phone conversation | 07/21/04 |
| 115 | Verega | 16 | 2/22/02 Eaton Problem with Leakers | 07/21/04 |
| 116 | Verega | 17 | 11/1/01 handwritten notes re Eaton conference call | 07/21/04 |
| 117 | Johnson | 1 | 7/12/99 memo from K. Cline to J. Wildermuth re: Eaton's trip report for Dicastomex | 07/26/04 |
| 118 | Johnson | 2 | 3/30/00 Sourcing Contract by and between HDC/Dicastomex and Eaton | 07/26/04 |
| 119 | Johnson | 3 | Undated memo titled "Die Casting Consolidation Project" for Eaton's Hutchinson, Kansas Plant | 07/26/04 |
| 120 | Johnson | 4 | 12/9/00 letter from Central Die Casting to R. Johnson re: issues with Central Die Casting's supply of parts to Eaton's Hutchinson, Kansas plant | 07/26/04 |
| 121 | Johnson | 5 | 7/27/00 e-mail from K. Klopfenstein to W. Sackrider, et al., re: Eaton's proposed purchase of valve bocks and compensators from Mexico | 07/26/04 |
| 122 | Johnson | 6 | 12/13/00 memo titled "Casting review Spencer" | 07/26/04 |
| 123 | Johnson | 7 | 10/31/00 memo from Marketwise Associates to Eaton titled "Strategic Overview of Eaton Mexican Ferrous Casting's Program | 07/26/04 |

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| 124 | Johnson | 8 | 12/11/00 e-mail from L. Garfias to R. Johnson attaching timeline reviewed with Dicastomex | 07/26/04 |
| 125 | Idonije | 1 | 2/21/01 e-mail from G. Cudak to R. Schnur, K. Idonije and C. Pennegar re: response to Eaton's suggested termination of contract with Dicastomex | 07/27/04 |
| 126 | Idonije | 2 | 8/21/02 e-mail from K. Idonije to G. Wiseman and H. Gluckman attaching termination letter | 07/27/04 |
| 127 | Idonije | 3 | 6/20/01 memo from J. Watt to G. Hetrick re: trip report for visit to Nebraska Die Casting, Impact and Central Die Casting | 07/27/04 |
| 128 | Idonije | 4 | 2/19/02 Eaton timeline reviewing Dicastomex | 07/27/04 |
| 129 | Idonije | 5 | 6/12/02 e-mail from G. Wiseman to K. Idonije re: PPAP type qualifying lots should not sit for 2 months warning to be checked by Eaton; G. Hetrick indicated that Eaton testing had been halted due to a field crisis, which was unrelated to HDC | 07/27/04 |
| 130 | Idonije | 6 | 6/17/02 fax from G. Hetrick to K. Idonije attaching HDC supplier scorecard - individual supplier performance rating | 07/27/04 |
| 131 | Idonije | 7 | September 2003 Eaton inspection records for HDC and Nebraska Die Casting | 07/27/04 |
| 132 | Wiseman | 1 | 5/9/99 fax from HDC to R. Johnson re: request for assistance in getting Invoice No. 28782 paid | 08/12/04 |
| 133 | Wiseman | 2 | 1/6/00 Representation Agreement by and between HDC and G. Wiseman | 08/12/04 |
| 134 | Wiseman | 3 | 1/4/00 e-mail from G. Wiseman to D. Crowe and H. Gluckman re: close to closing deal between HDC and Eaton | 08/12/04 |
| 135 | Wiseman | 4 | 1/12/02 draft of Sourcing Contract by and between Vickers and HDC | 08/12/04 |
| 136 | Wiseman | 5 | 1/12/02 e-mail from G. Wiseman to H. Gluckman re: R. Johnson, K. Cline and G. Goontz visit to HDC plant and status of sale of HDC's business | 08/12/04 |
| 137 | Wiseman | 6 | 1/18/00 e-mail from G. Wiseman to H. Gluckman re: cost of monthly lease | 08/12/04 |
| 138 | Wiseman | 7 | 1/19/02 e-mail from G. Wiseman to D. Crowe re: status of Eaton project and Eaton's low level of confidence with HDC | 08/12/04 |
| 139 | Wiseman | 8 | 1/23/00 e-mail from G. Wiseman to H. Gluckman re: need to secure lease financing | 08/12/04 |
| 140 | Wiseman | 9 | 1/26/00 e-mail from G. Wiseman to H. Gluckman re: drop in Eaton's volume for subject parts | 08/12/04 |
| 141 | Wiseman | 10 | 1/27/00 e-mail from G. Wiseman to H. Gluckman re: drop in Eaton's volume for subject parts | 08/12/04 |
| 142 | Wiseman | 11 | 1/27/00 e-mail from G. Wiseman to H. Gluckman re: Eaton's "RFQ" and anticipated volumes between 115,000 and 130,000 | 08/12/04 |
| 143 | Wiseman | 12 | 1/28/00 pricing spreadsheet for Vickers part no. 682988 | 08/12/04 |
| 144 | Wiseman | 13 | 1/30/00 e-mail from G. Wiseman to H. Gluckman re: modified proposal to Eaton and determination that 160,000 units per years is HDC's 100% CNC cell utilization level | 08/12/04 |
| 145 | Wiseman | 14 | 1/31/00 e-mail from G. Wiseman to D. Crowe and H. Gluckman re: new casting prices based on differing volumes | 08/12/04 |
| 146 | Wiseman | 15 | 1/28/00 spreadsheet prepared by HDC outlining Eaton pricing | 08/12/04 |

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| 147 | Wiseman | 16 | 2/1/00 power point presentation prepared by L. Garfias titled "Strategic Program Proposal for Aluminum Die Castings for Eaton Corporation - PVE Piston Pumps" | 08/12/04 |
| 148 | Wiseman | 17 | 2/4/02 e-mail from G. Wiseman to D. Crowe re: no anticipated problem with HDC's 12/7/01 210 piece lot of part no. 422308 | 08/12/04 |
| 149 | Wiseman | 18 | 2/7/00 e-mail from H. Gluckman to G. Wiseman attaching Sherwood price adjustments | 08/12/04 |
| 150 | Wiseman | 19 | 2/13/00 e-mail from G. Wiseman to H. Gluckman re: additional contract requirements including dedicated project manager | 08/12/04 |
| 151 | Wiseman | 20 | 2/14/00 Letter of Intent from HDC to Hemaq re: purchase of Okuma equipment | 08/12/04 |
| 152 | Wiseman | 21 | 3/2/00 e-mail from G. Wiseman to H. Gluckman re: calculation of actual percentage of HDC give-backs to Eaton and cost reductions achieved by HDC | 08/12/04 |
| 153 | Wiseman | 22 | 3/15/00 e-mail from G. Wiseman to H. Gluckman re: union problems with Eaton's Omaha plant and Hutchinson plant will be HDC's actual customer | 08/12/04 |
| 154 | Wiseman | 23 | 3/15/00 e-mail from H. Gluckman to G. Wiseman re: request for R. Garza to visit Eaton's Omaha plant | 08/12/04 |
| 155 | Wiseman | 24 | 3/15/00 letter from Marketwise Associates to HDC re: strategic overview and risk management issues with the Eaton program | 08/12/04 |
| 156 | Wiseman | 25 | 3/15/00 e-mail from G. Wiseman to R. Johnson re: need for Eaton to make deal with current die caster to obtain release of back-up die for use by HDC | 08/12/04 |
| 157 | Wiseman | 26 | 3/16/00 e-mail from G. Wiseman to H. Gluckman re: Eaton refusal to let R. Garza see Omaha plant and refusal of Omaha plant to deal with project except for assembly of Eaton end product | 08/12/04 |
| 158 | Wiseman | 27 | 3/27/00 e-mail from H. Gluckman to G. Wiseman re: issues with HDC's "give-back" percentages to Eaton and leasing issues | 08/12/04 |
| 159 | Wiseman | 28 | 3/30/00 Sourcing Contract by and between HDC and Eaton | 08/12/04 |
| 160 | Wiseman | 29 | 4/9/00 e-mail from G. Wiseman to R. Johnson and R. Hester re: summary of Dicastomex meeting at the Hutchinson plant on Apr. 6, 2000 | 08/12/04 |
| 161 | Wiseman | 30 | 4/9/00 e-mail from Marketwise Associates to R. Johnson, et al., re: notes from 4/6/00 HDC meeting at Eaton's Hutchinson plant | 08/12/04 |
| 162 | Wiseman | 31 | 4/12/00 e-mail from G. Wiseman to D. Crowe and R. Garza re: tool budget and estimated number of remaining shots left in die before replacement needed | 08/12/04 |
| 163 | Wiseman | 32 | 4/19/00 e-mail from G. Wiseman to R. Johnson re: approval of HDC financing and refusal of bank to finance Eaton's fixtures | 08/12/04 |
| 164 | Wiseman | 33 | 4/28/00 fax from D. Crowe to R. Johnson re: quote to Eaton for trim tool necessary to process Eaton castings | 08/12/04 |
| 165 | Wiseman | 34 | 4/28/00 fax from J. Moulton to R. Garza re: Eaton's initial sample inspection report for HDC's parts | 08/12/04 |
| 166 | Wiseman | 35 | 4/18/02 e-mail from H. Gluckman to G. Wiseman re: savings on lease due to HDC's increased down payment | 08/12/04 |

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| 167 | Wiseman | 36 | 5/12/00 e-mail from H. Gluckman to G. Wiseman re: transfer made by HDC for purchase of Okuma equipment | 08/12/04 |
| 168 | Wiseman | 37 | 1/4/00 e-mail from G. Wiseman to D. Crowe re: threat of current die caster to shut down Eaton and request by Eaton to make two new tools | 08/12/04 |
| 169 | Wiseman | 38 | 6/14/00 e-mail from H. Gluckman to G. Wiseman re: shipment made to Dieco to duplicate die | 08/12/04 |
| 170 | Wiseman | 39 | 6/9/00 e-mail from G. Wiseman to D. Crowe re: possibility that Eaton will want die to go to them directly from Dieco | 08/12/04 |
| 171 | Wiseman | 40 | 9/7/00 e-mail from G. Wiseman to R. Johnson re: annual forecast for comparable part numbers that HDC will manufacture for Eaton and request for machining prints | 08/12/04 |
| 172 | Wiseman | 41 | 9/7/00 fax from H. Gluckman to G. Wiseman re: request for assistance in getting Eaton to pay outstanding interest on Okuma machines | 08/12/04 |
| 173 | Wiseman | 42 | 9/7/00 fax from H. Gluckman to G. Wiseman re: request for assistance in getting Eaton to pay outstanding interest on Okuma machines | 08/12/04 |
| 174 | Wiseman | 43 | 9/12/00 e-mail from G. Wiseman to K. Hurston and R. Johnson re: suggestions for gaining support at the plant level and request to identify proactive leaders at the plant level | 08/12/04 |
| 175 | Wiseman | 44 | 9/21/00 e-mail from G. Wiseman to H. Gluckman re: agreement to pay interest and request to defer loan and acknowledgement that Eaton caused delay | 08/12/04 |
| 176 | Wiseman | 45 | 9/21/00 e-mail from G. Wiseman to R. Johnson re: estimated annual interest on HDC's Okuma equipment | 08/12/04 |
| 177 | Wiseman | 46 | 10/17/00 e-mail from G. Wiseman to L. Garfias re: incorrect timeline showing production starting in mid-march rather than mid-January | 08/12/04 |
| 178 | Wiseman | 47 | 10/20/00 e-mail from G. Wiseman to D. Crowe re: feedback to HDC's pricing of Eaton castings | 08/12/04 |
| 179 | Wiseman | 48 | 10/23/00 e-mail from L. Garfias to G. Wiseman re: Okuma run-off not approved | 08/12/04 |
| 180 | Wiseman | 49 | 10/26/00 e-mail from G. Wiseman to R. Johnson re: updated aluminum housing timeline | 08/12/04 |
| 181 | Wiseman | 50 | 11/26/00 e-mail from G. Wiseman to D. Crowe re: request to fill out self-survey questionnaire and suggested response for method of payment to Marketwise Associates and QAS | 08/12/04 |
| 182 | Wiseman | 51 | 11/28/00 e-mail from G. Wiseman to D. Crowe re: transition in groups based on machine group and suggestion to treat R. Hester's questions with care and Eaton's concern with HDC's comment about a 5% turnover rate | 08/12/04 |
| 183 | Wiseman | 52 | 11/28/00 e-mail from H. Gluckman to G. Wiseman re: HDC goal to get cast and trim work first because it is easiest to absorb | 08/12/04 |
| 184 | Wiseman | 53 | 12/8/00 e-mail from H. Gluckman to Imprex USA and G. Wiseman re: convincing Eaton that Imprex is superior to Locktite | 08/12/04 |
| 185 | Wiseman | 54 | 12/11/00 e-mail from L. Garfias to R. Johnson and G. Wiseman re: revised timeline for HDC - Eaton project | 08/12/04 |

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| 186 | Wiseman | 55 | 12/18/00 e-mail from G. Wiseman to R. Johnson re: response to Eaton comment that they should have more suppliers to prevent future situation like Nebraska Die Casting | 08/12/04 |
| 187 | Wiseman | 56 | 12/15/00 e-mail from H. Gluckman to G. Wiseman attaching Okuma invoices and spreadsheet analyzing HDC's cost breakdown for the Eaton project | 08/12/04 |
| 188 | Wiseman | 57 | 12/15/00 e-mail from H. Gluckman to G. Wiseman attaching recap on interest and payments on bank notes for the Okuma machines | 08/12/04 |
| 189 | Wiseman | 58 | 1/22/01 e-mail from G. Wiseman to R. Johnson re: request for Eaton to support HDC on the accumulated interest expense that R. Johnson and K. Hurston agreed to pay because of administrative delays at Eaton | 08/12/04 |
| 190 | Wiseman | 59 | 1/22/01 e-mail from G. Wiseman to R. Johnson re: request for Eaton to support HDC on the accumulated interest expense that R. Johnson and K. Hurston agreed to pay because of administrative delays at Eaton | 08/12/04 |
| 191 | Wiseman | 60 | 1/27/01 e-mail from G. Wiseman to D. Crowe and copying H. Gluckman re: adjusted costs on housing machining at lower Eaton volumes | 08/12/04 |
| 192 | Wiseman | 61 | 1/27/01 e-mail from G. Wiseman to D. Crowe and copying H. Gluckman re: adjusted costs on housing machining at lower Eaton volumes | 08/12/04 |
| 193 | Wiseman | 62 | 1/29/01 e-mail from M Carpenter to G. Brewer, et al., re: Dicastomex audit report | 08/12/04 |
| 194 | Wiseman | 63 | 2/1/01 e-mail from G. Wiseman to R. Johnson attaching Dicastomex audit report | 08/12/04 |
| 195 | Wiseman | 64 | 2/2/01 e-mail from H. Gluckman to G. Wiseman re: Eaton suggested visit of in-house Eaton die cast person | 08/12/04 |
| 196 | Wiseman | 65 | 2/2/01 e-mail from H. Gluckman to R. Johnson re: request to Eaton to resolve issue with interest costs on HDC's Okuma equipment during time of delay caused by Eaton internal issues | 08/12/04 |
| 197 | Wiseman | 66 | 2/8/01 e-mail from G. Wiseman to H. Gluckman attaching spreadsheet of analyzing impact on machining costs as a result of Eaton's drop in volume | 08/12/04 |
| 198 | Wiseman | 67 | 2/9/01 e-mail from G. Wiseman to R. Johnson and copying D. Crowe and H. Gluckman re: alternate machining costs due to Eaton's volume reduction | 08/12/04 |
| 199 | Wiseman | 68 | 2/21/01 e-mail from G. Wiseman to R. Hester attaching Dicastomex quote #QT-9254 including Terms and Conditions incorporating NADCA standards into HDC's shipment of castings | 08/12/04 |
| 200 | Wiseman | 69 | 3/1/01 e-mail from R. Garza to A. Cervantes re: Okuma run-off | 08/12/04 |
| 201 | Wiseman | 70 | 3/2/01 e-mail from H. Gluckman to G. Wiseman copying L. Garfias re: HDC's frustration with Hemaq only "proving out" two of the sixteen situations | 08/12/04 |
| 202 | Wiseman | 71 | 3/31/01 e-mail from G. Wiseman to H. Gluckman re: requirement that L. Garfias first supply report of physical review and approval of HDC castings before HDC ships parts to Eaton | 08/12/04 |

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| 203 | Wiseman | 72 | 3/31/01 e-mail from G. Wiseman to D. Crowe and H. Gluckman re: sample housings for second CNC phase | 08/12/04 |
| 204 | Wiseman | 73 | 4/7/01 e-mail from G. Wiseman to K. Cline re: HDC's carrying costs for Okuma equipment as a result of Eaton not providing tooling | 08/12/04 |
| 205 | Wiseman | 74 | 4/7/01 e-mail from G. Wiseman to K. Cline re: Summary of new tooling PPAP's | 08/12/04 |
| 206 | Wiseman | 75 | 4/7/01 e-mail from G. Wiseman to K. Cline re: HDC's carrying costs for Okuma equipment as a result of Eaton not providing tooling | 08/12/04 |
| 207 | Wiseman | 76 | 4/29/01 e-mail from G. Wiseman to D. Crowe and R. Garza re: going forward plan to get PPAP approval first and then establish a maximum porosity standard | 08/12/04 |
| 208 | Wiseman | 77 | 5/12/01 e-mail from G. Wiseman to H. Gluckman re: feedback from Eaton and exploring possibilities for accommodations for L. Garfias while in Mexico | 08/12/04 |
| 209 | Wiseman | 78 | 5/20/01 e-mail from G. Wiseman to K. Idonije re: request for "move-in" plan for Eaton shifting Nebraska Die Casting work to Dicastomex | 08/12/04 |
| 210 | Wiseman | 79 | 6/5/01 e-mail from G. Wiseman to H. Gluckman and copying D. Crowe re: scheduling of K. Idonije trip to Dicastomex | 08/12/04 |
| 211 | Wiseman | 80 | 6/26/01 e-mail from G. Wiseman to K. Idonije re: suggested time line | 08/12/04 |
| 212 | Wiseman | 81 | 6/28/04 e-mail from G. Wiseman to H. Gluckman re: support for P.O. price for '308 parts | 08/12/04 |
| 213 | Wiseman | 82 | 6/28/01 e-mail from G. Wiseman to K. Idonije re: price for 4,000 units of Eaton's 422308 parts | 08/12/04 |
| 214 | Wiseman | 83 | 7/2/01 e-mail from G. Wiseman to H. Gluckman re: pricing issues associated with Eaton's 422308 parts | 08/12/04 |
| 215 | Wiseman | 84 | 7/2/01 e-mail from G. Wiseman to K. Idonije re: scheduling meeting to discuss transfer of Central Die Casting work | 08/12/04 |
| 216 | Wiseman | 85 | 7/2/01 e-mail from G. Wiseman to K. Idonije re: pricing issues associated with Eaton's 422308 parts | 08/12/04 |
| 217 | Wiseman | 86 | 7/12/01 e-mail from G. Wiseman to B. Gritzewsky re: issue with missing boring bar that Okuma was to supply Dicastomex | 08/12/04 |
| 218 | Wiseman | 87 | 7/16/04 e-mail from G. Wiseman to H. Gluckman re: three main issues for HDC to focus on with K. Idonije including: (1) interest payments, (2) pricing on PVE housings at Eaton's reduced volume and (3) timeline for shift of Central Die Casting and Nebraska Die Casting work | 08/12/04 |
| 219 | Wiseman | 88 | 7/16/01 e-mail from G. Wiseman to H. Gluckman re: request for assistance from HDC in paying L. Garfias until parties obtain income | 08/12/04 |
| 220 | Wiseman | 89 | 7/16/01 e-mail from H. Gluckman to G. Wiseman re: forwarding to M. Gluckman Marketwise Associate's request for commissions from Wabtec to fund L. Garfias's work | 08/12/04 |
| 221 | Wiseman | 90 | 7/16/01 e-mail from G. Wiseman to H. Gluckman re: issues relating to HDC's purchase order for '308 parts and transition plan | 08/12/04 |

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| 222 | Wiseman | 91 | 7/20/01 e-mail from G. Wiseman to H. Gluckman re: notification that HBA Die Casting is interested in the Eaton project | 08/12/04 |
| 223 | Wiseman | 92 | 7/23/01 e-mail from G. Wiseman to H. Gluckman re: confirmation that K. Hurston agreed to pay HDC \$21,000 in interest and issues to resolve with K. Idonije | 08/12/04 |
| 224 | Wiseman | 93 | 7/23/01 e-mail from G. Wiseman to H. Gluckman re: confirmation that K. Hurston agreed to pay HDC \$21,000 in interest and issues to resolve with K. Idonije | 08/12/04 |
| 225 | Wiseman | 94 | 7/23/01 e-mail from G. Wiseman to H. Gluckman re: confirmation that K. Hurston agreed to pay HDC \$21,000 in interest and issues to resolve with K. Idonije | 08/12/04 |
| 226 | Wiseman | 95 | 7/23/01 e-mail from G. Wiseman to H. Gluckman re: confirmation that K. Hurston agreed to pay HDC \$21,000 in interest and issues to resolve with K. Idonije | 08/12/04 |
| 227 | Wiseman | 96 | 7/31/01 e-mail from G. Wiseman to K. Idonije re: L. Garfias working more closely with G. Hetrick and QAS currently reviewing 450 pieces of 422308 parts produced by HDC | 08/12/04 |
| 228 | Wiseman | 97 | 8/26/01 e-mail from G. Wiseman to K. Idonije re: confirmation that QAS works for Eaton, but is paid by Marketwise Associates | 08/12/04 |
| 229 | Wiseman | 98 | 8/22/01 power point presentation prepared by L. Garfias titled "Report of visit to Hutchinson Plant to review findings in first 500 pieces production lot" | 08/12/04 |
| 230 | Wiseman | 99 | 8/22/01 e-mail from G. Wiseman to K. Idonije re: reason no Dicastomex personnel scheduled to attend 8/24/01 meeting | 08/12/04 |
| 231 | Wiseman | 100 | 8/22/01 power point presentation prepared by L. Garfias titled "Report of visit to Hutchinson Plant to review findings in first 500 pieces production lot" with various additional documents and notes attached | 08/12/04 |
| 232 | Wiseman | 101 | 8/15/01 e-mail from G. Wiseman to K. Idonije re: background behind Eaton decision to make Dicastomex the doorway for Eaton into Mexico and revised transition strategy | 08/12/04 |
| 233 | Wiseman | 102 | 8/15/01 e-mail from G. Wiseman to J. Moulton re: action plan to resolve open issues at Dicastomex | 08/12/04 |
| 234 | Wiseman | 103 | 8/14/01 e-mail from /j. Moulton to K. Idonije re: Dicastomex castings have more external and internal porosity than Eaton's incumbent supplier and going forward plan to solve issues | 08/12/04 |
| 235 | Wiseman | 104 | 8/14/01 e-mail from J. Moulton to K. Idonije, et al., re: summary of Dicastomex meeting at Eaton re: first lot or shipment of 500 pieces received at Eaton | 08/12/04 |
| 236 | Wiseman | 105 | 8/13/01 e-mail from G. Wiseman to K. Idonije re: request for assistance in advancing project with HDC and getting R. Hester on-board | 08/12/04 |
| 237 | Wiseman | 106 | 8/13/01 e-mail from G. Wiseman to K. Idonije attaching digital photographs of problems with HDC's packaging and issues with HDC's castings | 08/12/04 |
| 238 | Wiseman | 107 | 8/13/01 e-mail from G. Wiseman to H. Gluckman re: Eaton requiring no porosity on o-ring groove and discussing recent inspection issues | 08/12/04 |

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| 239 | Wiseman | 108 | 8/13/01 e-mail from G. Wiseman to H. Gluckman re: Eaton requiring no porosity on o-ring groove and discussing recent inspection issues | 08/12/04 |
| 240 | Wiseman | 109 | 8/13/01 e-mail from K. Idonije to G. Wiseman re: request for action plan with respect to Dicastomex/Marketwise Associates resolving the porosity problems and requesting timeline from G. Hetrick on assembly testing | 08/12/04 |
| 241 | Wiseman | 110 | 8/12/01 e-mail from G. Wiseman to R. Wilson re: suggestion that Callen Die Casting consider taking over Eaton project through Dicastomex | 08/12/04 |
| 242 | Wiseman | 111 | 8/12/01 e-mail from G. Wiseman to K. Idonije re: resolving shipping issues and porosity issues and suggestion that Eaton's current supplier does not leak test and Eaton learns of problems during their assembly test | 08/12/04 |
| 243 | Wiseman | 112 | 8/10/01 e-mail from G. Wiseman to H. Gluckman re: material to prepare H. Gluckman for questions from Callen Die Casting re: "give-backs" to Eaton | 08/12/04 |
| 244 | Wiseman | 113 | 8/10/01 e-mail from G. Wiseman to D. Crowe and H. Gluckman attaching porosity photos and warning HDC that Eaton production getting nervous because HDC three weeks behind and need good parts soon and confirmation that L. Garfias found some porosity in HDC's parts | 08/12/04 |
| 245 | Wiseman | 114 | 8/10/01 e-mail from G. Wiseman to G. Hetrick and J. Moulton attaching digital photographs of parts as packaged at Dicastomex | 08/12/04 |
| 246 | Wiseman | 115 | 8/10/01 e-mail from G. Wiseman to HDC re: suggestions for identifying and resolving packaging issues | 08/12/04 |
| 247 | Wiseman | 116 | 8/10/01 e-mail from J. Moulton to H. Gluckman re: no expectation that freight company will improve and HDC needs to account for this when shipping | 08/12/04 |
| 248 | Wiseman | 117 | 8/9/01 e-mail from G. Wiseman to G. Hetrick re: scheduling meeting at Eaton's Hutchinson plant | 08/12/04 |
| 249 | Wiseman | 118 | 8/8/01 e-mail from G. Wiseman to R. Hester re: request for Eaton to pay invoice #32360 less the surcharge | 08/12/04 |
| 250 | Wiseman | 119 | 8/10/01 e-mail from G. Wiseman to D. Crowe re: shipping suggestions to HDC and attaching digital photographs of damaged HDC shipment | 08/12/04 |
| 251 | Wiseman | 120 | 8/6/01 e-mail from G. Wiseman to H. Gluckman re: request for update on status of PPAP on part no. 682988 | 08/12/04 |
| 252 | Wiseman | 121 | 8/3/01 e-mail from G. Wiseman to K. Idonije re: ten messages left for G. Hetrick before L. Garfias received a response and Dicastomex will wait to ship additional '308 parts until they hear back on the quality, functionality and packaging of the first 500 parts shipped | 08/12/04 |
| 253 | Wiseman | 122 | 8/3/01 e-mail from G. Wiseman to H. Gluckman re: request for help in paying L. Garfias and memo from b/ Wilson to G. Wiseman re: primary points to discuss re: the Eaton contract | 08/12/04 |

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| 254 | Wiseman | 123 | 9/12/01 e-mail from G. Wiseman to K. Idonije re: process improvements made at Dicastomex including changes to the gating and current porosity in thicker walls, which may be caused by the part geometry | 08/12/04 |
| 255 | Wiseman | 124 | 9/12/01 e-mail from G. Wiseman to D. Pontsler re: recap of three leg program at Eaton to move die casting to Mexico for cost reductions | 08/12/04 |
| 256 | Wiseman | 125 | 9/13/01 e-mail from G. Wiseman to S. Kothari re: elimination of porosity in thin areas of parts produced by Dicastomex and confirmation from Eaton that porosity in thick areas of castings is ok | 08/12/04 |
| 257 | Wiseman | 126 | 9/14/01 fax from G. Wiseman to K. Idonije requesting that Eaton issue a purchase order to HDC for part nos. 42290/91, 422308, 422309, 928598, and 676437 | 08/12/04 |
| 258 | Wiseman | 127 | 9/14/01 fax from G. Wiseman to K. Idonije requesting that Eaton issue a purchase order to HDC for part nos. 42290/91, 422308, 422309, 928598, and 676437 | 08/12/04 |
| 259 | Wiseman | 128 | 9/17/01 e-mail from G. Wiseman to L. Garfias asserting that HDC has one last chance with Eaton and warning that HDC could lose all of its Eaton business | 08/12/04 |
| 260 | Wiseman | 129 | 9/26/01 e-mail from H. Gluckman to G. Wiseman re: HDC not responsible for paying anything to L. Garfias that is not authorized as necessary and L. Garfias must obtain HDC approval to stay over at its facilities | 08/12/04 |
| 261 | Wiseman | 130 | 9/26/01 e-mail from G. Wiseman re: suggestion that HDC makes sure its people understand their role to help reduce the cost of L. Garfias | 08/12/04 |
| 262 | Wiseman | 131 | 10/8/01 e-mail from L. Garfias to D. Crowe and G. Wiseman re: possible porosity on pintle bore area on first 150 parts and request to ship remaining 300 parts some of which may be rejected due to porosity, but some may be ok to use | 08/12/04 |
| 263 | Wiseman | 132 | 10/8/01 e-mail from L. Garfias to G. Wiseman and copying D. Crowe re: porosity concerns are real, but Dicastomex has put in place correction for pintle bore sealing surface and porosity in subsequent lots should be reduced to almost nothing | 08/12/04 |
| 264 | Wiseman | 133 | 10/11/01 e-mail from G. Wiseman to K. Idonije, et al., re: request for anticipated demand and a short-term schedule in anticipation of small Dicastomex lots passing Eaton's inspection | 08/12/04 |
| 265 | Wiseman | 134 | 10/12/01 e-mail from G. Wiseman to D. Crowe re: request to send 118 pieces of '308 parts to Eaton using Chris Truck Lines | 08/12/04 |
| 266 | Wiseman | 135 | 10/15/01 e-mail from L. Garfias to G. Wiseman and D. Crowe re: out of inspection of 110 parts, 92 passed the porosity quality tests; 30-40% of the acceptable parts need to be cleaned before shipping | 08/12/04 |
| 267 | Wiseman | 136 | 10/26/01 e-mail from G. Wiseman to K. Idonije re: Eaton maximizes cost savings if Dicastomex has \$3,000,000 of volume at its plant and both parties made investments based on that scenario | 08/12/04 |

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| 268 | Wiseman | 137 | 10/26/01 e-mail from G. Wiseman to S. Kothari re: Chris Trucking does not pick-up from McAllen, Texas and confirmation that 78 pieces sent to Eaton for review | 08/12/04 |
| 269 | Wiseman | 138 | 11/8/01 e-mail from G. Wiseman to H. Gluckman re: key is to send a few good lots to Eaton that are cast, machined, impregnated and packaged correctly so that Eaton will shift its Central Die Casting work to Eaton | 08/12/04 |
| 270 | Wiseman | 139 | 11/8/01 e-mail from G. Wiseman to D. Pontsler re: request for response from Eaton on porosity specification | 08/12/04 |
| 271 | Wiseman | 140 | 11/8/01 e-mail from G. Wiseman to H. Gluckman re: confirmation from T. Casey that porosity specifications were acceptable and that they will accept them | 08/12/04 |
| 272 | Wiseman | 141 | 11/13/01 e-mail from G. Wiseman to D. Pontsler re: clarification that Marketwise Associates suggested J. Moulton be paid by Eaton and work through Dicastomex or Marketwise Associates in an IQP role | 08/12/04 |
| 273 | Wiseman | 142 | 11/19/01 e-mail from G. Wiseman to K. Idonije re: failure on Eaton's part to deliver extra tool to HDC to get them qualified and other issues with shifting work to HDC | 08/12/04 |
| 274 | Wiseman | 143 | 11/24/01 e-mail from K. Idonije to G. Wiseman re: failure on Eaton's part to deliver extra tool to HDC to get them qualified and other issues with shifting work to HDC | 08/12/04 |
| 275 | Wiseman | 144 | 11/26/01 e-mail from H. Gluckman to G. Wiseman re: request to develop going forward plan to recover payments made on Okuma equipment and confirmation that orders from Eaton do not come close to promised amount | 08/12/04 |
| 276 | Wiseman | 145 | 11/26/01 e-mail from G. Wiseman to H. Gluckman re: HDC's shipment of first 500 pieces hurt Eaton's confidence level and will not issue more purchase orders until HDC is qualified on the '308 parts; HDC was not able to deliver after Eaton cancelled their current supplier | 08/12/04 |
| 277 | Wiseman | 146 | 11/26/01 e-mail from H. Gluckman to G. Wiseman re: Eaton caused as many delays as HDC and simply blame HDC for one thing or another | 08/12/04 |
| 278 | Wiseman | 147 | 11/26/01 e-mail from G. Wiseman to K. Idonije re: revision to Eaton purchase order no. 64020 for '308 parts | 08/12/04 |
| 279 | Wiseman | 148 | 11/26/01 e-mail from G. Wiseman to K. Idonije re: revision to Eaton purchase order no. 64020 for '308 parts | 08/12/04 |
| 280 | Wiseman | 149 | 11/26/01 e-mail from G. Wiseman to H. Gluckman analogizing situation to saying that "if you want to beat a dog, you can always find a stick" | 08/12/04 |
| 281 | Wiseman | 150 | 12/1/01 e-mail from G. Wiseman to K. Idonije providing other successes against Eaton to counteract 500 rejected parts that HDC initially supplied because it was operating under a different porosity assumption than Eaton | 08/12/04 |
| 282 | Wiseman | 151 | 12/1/01 e-mail from G. Wiseman to K. Idonije providing other successes against Eaton to counteract 500 rejected parts that HDC initially supplied because it was operating under a different porosity assumption than Eaton | 08/12/04 |

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| 283 | Wiseman | 152 | 12/2/01 e-mail from G. Wiseman to K. Idonije re: plan from start that Eaton would use two Mexican die casters to split Central Die Casting and Nebraska Die Casting work | 08/12/04 |
| 284 | Wiseman | 153 | 12/3/01 e-mail from H. Gluckman to G. Wiseman re: alternatives to present to Eaton to resolve issue of no cash flow being generated for HDC on the Eaton project | 08/12/04 |
| 285 | Wiseman | 154 | 12/4/04 e-mail from G. Wiseman to H. Gluckman re: timing of providing alternatives to Eaton to resolve issue of no cash flow being generated for HDC on the Eaton project | 08/12/04 |
| 286 | Wiseman | 155 | 12/4/04 e-mail from G. Wiseman to H. Gluckman re: timing of providing alternatives to Eaton to resolve issue of no cash flow being generated for HDC on the Eaton project | 08/12/04 |
| 287 | Wiseman | 156 | 12/10/01 e-mail from G. Wiseman to K. Idonije re: request for Eaton timeline on issuing additional purchase orders on '308 parts | 08/12/04 |
| 288 | Wiseman | 157 | 12/14/01 e-mail from G. Wiseman to K. Idonije re: reminder that HDC needs cash flow from Eaton to pay for its dedicated cells | 08/12/04 |
| 289 | Wiseman | 158 | 12/18/01 e-mail from L. Garfias to D. Crowe re: request that G. Cossa prepare an answer for Eaton as to the discrepancies found in Dicastomex's last shipment to Eaton | 08/12/04 |
| 290 | Wiseman | 159 | 1/2/02 e-mail from G. Wiseman to K. Idonije re: lack of response from Eaton for three weeks as to open issues and need for a champion at Eaton to move the project forward | 08/12/04 |
| 291 | Wiseman | 160 | 1/7/02 e-mail from G. Wiseman to D. Crowe attaching e-mail to K. Idonije to keep pressure on Eaton to move project forward | 08/12/04 |
| 292 | Wiseman | 161 | 1/7/02 e-mail from G. Wiseman to K. Idonije re: request for a written game plan from Eaton to move project forward | 08/12/04 |
| 293 | Wiseman | 162 | 1/7/02 e-mail from K. Idonije to G. Wiseman re: request that Eaton sort Dicastomex's shipment of 210 pieces quickly as its second lot was approved | 08/12/04 |
| 294 | Wiseman | 163 | 1/7/02 e-mail from K. Idonije to G. Wiseman re: request that Eaton sort Dicastomex's shipment of 210 pieces quickly as its second lot was approved | 08/12/04 |
| 295 | Wiseman | 164 | 1/12/02 e-mail from G. Wiseman to K. Idonije re: confirmation that Dicastomex's second 450 lot shipped to Eaton and confirmation that first lot of 450 pieces of '308 parts were accepted by Eaton | 08/12/04 |
| 296 | Wiseman | 165 | 1/15/02 e-mail from G. Wiseman to K. Idonije re: request for update on status of shifting work to Eaton as R. Schnur indicated Eaton's die casting strategy had been set for some time | 08/12/04 |
| 297 | Wiseman | 166 | 1/15/02 e-mail from G. Wiseman to K. Idonije re: request for update on status of shifting work to Eaton as R. Schnur indicated Eaton's die casting strategy had been set for some time | 08/12/04 |
| 298 | Wiseman | 167 | 1/16/02 e-mail from G. Wiseman to K. Idonije re: request for Eaton timeline so that Dicastomex can incorporate it into its plans and request for update on status of Eaton's review of 29 pieces of 622988's supplied to Eaton | 08/12/04 |

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| 299 | Wiseman | 168 | 1/16/02 e-mail from G. Wiseman to K. Idonije re: request for Eaton timeline so that Dicastomex can incorporate it into its plans and request for update on status of Eaton's review of 29 pieces of 622988's supplied to Eaton | 08/12/04 |
| 300 | Wiseman | 169 | 1/21/02 e-mail from G. Wiseman to D. Crowe re: update on status of Eaton orders and going forward plan with respect to passing on cost of under utilized Dicastomex cell | 08/12/04 |
| 301 | Wiseman | 170 | 2/4/02 e-mail from G. Wiseman to D. Crowe re: Eaton's failure to sort Dicastomex's December shipment because their business is slow and that Dicastomex's shipments have been good and G. Hetrick did not anticipate a problem with Dicastomex's December shipment of 210 pieces | 08/12/04 |
| 302 | Wiseman | 171 | 2/4/02 e-mail from G. Wiseman to D. Crowe re: Dicastomex's PPAP for part no. 62298 was approved by Eaton, but Eaton lacks a sense of urgency in providing HDC with purchase orders | 08/12/04 |
| 303 | Wiseman | 172 | 2/4/02 e-mail from G. Wiseman to D. Crowe re: Dicastomex's PPAP for part no. 62298 was approved by Eaton, but Eaton lacks a sense of urgency in providing HDC with purchase orders | 08/12/04 |
| 304 | Wiseman | 173 | 2/8/02 e-mail from G. Wiseman to H. Gluckman re: Dicastomex provided good lots to Eaton of 210, 450 and 450; once Dicastomex sees what Eaton's order will be for next several months, it can adjust the price accordingly | 08/12/04 |
| 305 | Wiseman | 174 | 2/11/02 e-mail from G. Wiseman to H. Gluckman re: Eaton ready to purchase '308, '309 and '988 parts, but is currently down sizing plant and staff and needs some time to focus on this and request for update on sale of Dicastomex to called and structure of that sale | 08/12/04 |
| 306 | Wiseman | 175 | 2/12/02 e-mail from G. Wiseman to H. Gluckman re: request for update on sale of Dicastomex to called and structure of that sale | 08/12/04 |
| 307 | Wiseman | 176 | 2/12/02 e-mail from H. Gluckman to G. Wiseman re: request to calculate new prices for Eaton at the quantities that Eaton is currently purchasing | 08/12/04 |
| 308 | Wiseman | 177 | 2/27/02 e-mail from G. Wiseman to H. Gluckman re: five lots sent by Dicastomex to Eaton with no problems; request by QAS for funding from Dicastomex; problem with psi testing being performed incorrectly – part not entirely submerged | 08/12/04 |
| 309 | Wiseman | 178 | 3/11/02 e-mail from R. Schnur to G. Wiseman re: request for Marketwise Associates to keep working with K. Idonije and the plant to move project forward and responding to e-mail from G. Wiseman that Eaton found 12% of Dicastomex's February shipment to leak, but previous lots were ok | 08/12/04 |
| 310 | Wiseman | 179 | 3/17/02 e-mail from G. Wiseman to H. Gluckman re: need for Dicastomex to follow through on QA procedures and loss of L. Garfias' services because of Eaton's failure to provide cash flow | 08/12/04 |
| 311 | Wiseman | 180 | 3/17/02 e-mail from G. Wiseman to H. Gluckman re: need for Dicastomex to follow through on QA procedures and loss of L. Garfias' services because of Eaton's failure to provide cash flow | 08/12/04 |

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| 312 | Wiseman | 181 | 4/3/02 e-mail from /G. Wiseman to H. Gluckman re: request for update on sale of Dicastomex to Callen Die Casting and reminder that Dicastomex needs to put together a shipment of 1,000 acceptable parts for Eaton | 08/12/04 |
| 313 | Wiseman | 182 | 4/24/02 e-mail from G. Wiseman to K. Idonije re: leak problem with Dicastomex parts should now be resolved because Dicastomex has fixed its leak test machine | 08/12/04 |
| 314 | Wiseman | 183 | 4/24/02 e-mail from G. Wiseman to K. Idonije re: leak problem with Dicastomex parts should now be resolved because Dicastomex has fixed its leak test machine | 08/12/04 |
| 315 | Wiseman | 184 | 4/27/02 e-mail from K. Idonije to G. Wiseman re: request for update on when Eaton will ramp up the program to achieve maximum savings | 08/12/04 |
| 316 | Wiseman | 185 | 5/7/02 e-mail from H. Gluckman to G. Wiseman re: K. Idonije evading issues and causing delay to detriment of HDC causing a serious cash flow problem | 08/12/04 |
| 317 | Wiseman | 186 | 5/30/02 e-mail from G. Wiseman to H. Gluckman re: Eaton not assembling pumps currently because of a field recall | 08/12/04 |
| 318 | Wiseman | 187 | 5/30/02 e-mail from G. Wiseman to H. Gluckman re: Eaton not assembling pumps currently because of a field recall | 08/12/04 |
| 319 | Wiseman | 188 | 6/12/02 e-mail from G. Wiseman to K. Idonije re: PPAP type qualifying lots should not sit for 2 months warning to be checked by Eaton; G. Hetrick indicated that Eaton testing had been halted due to a field crisis, which was unrelated to HDC | 08/12/04 |
| 320 | Wiseman | 189 | 7/22/02 e-mail from K. Idonije to H. Gluckman re: recommendation to Eaton that they move project forward or terminate in a fair manner by transferring cell to another supplier and confirmation that there was a fear of change at Eaton's plant level causing the project to fail | 08/12/04 |
| 321 | Wiseman | 190 | 7/2/02 e-mail from G. Wiseman to K. Idonije responding to allegations that G. Wiseman was finger pointing and attempts by G. Wiseman to get project back on track | 08/12/04 |
| 322 | Wiseman | 191 | 7/22/02 e-mail from K. Idonije to H. Gluckman re: recommendation to Eaton that they move project forward or terminate in a fair manner by transferring cell to another supplier and confirmation that there was a fear of change at Eaton's plant level causing the project to fail | 08/12/04 |
| 323 | Wiseman | 192 | 7/22/02 e-mail from K. Idonije to H. Gluckman re: recommendation to Eaton that they move project forward or terminate in a fair manner by transferring cell to another supplier and confirmation that there was a fear of change at Eaton's plant level causing the project to fail | 08/12/04 |
| 324 | Wiseman | 193 | 7/23/02 Summary of HDC's costs incurred in connection with Eaton project | 08/12/04 |
| 325 | Wiseman | 194 | 7/27/02 e-mail from G. Wiseman to H. Gluckman re: suggestions for negotiation of a settlement with Eaton | 08/12/04 |
| 326 | Wiseman | 195 | 7/22/02 e-mail from G. Wiseman to H. Gluckman re: ultimatum presented to Eaton to order parts or terminate contract in a just and fair manner and confirmation that K. Idonije sees transferring project to new supplier as the best alternative | 08/12/04 |

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| 327 | Wiseman | 196 | 8/12/02 e-mail from H. Gluckman to G. Wiseman re: request for assistance in settling dispute with Eaton by purchasing parts or finding purchaser for the HDC cell | 08/12/04 |
| 328 | Wiseman | 197 | 8/20/02 e-mail from G. Wiseman to H. Gluckman re: problems with computer preventing G. Wiseman from drafting letter to Eaton re: settlement | 08/12/04 |
| 329 | Wiseman | 198 | 8/21/02 letter from Eaton to Dicastomex and HDC terminating sourcing contract | 08/12/04 |
| 330 | Wiseman | 199 | 8/21/02 letter from Eaton to Dicastomex and HDC terminating sourcing contract | 08/12/04 |
| 331 | Wiseman | 200 | 8/21/02 letter from HDC to Eaton requesting immediate "termination settlement" | 08/12/04 |
| 332 | Wiseman | 201 | 8/21/02 e-mail from G. Wiseman to H. Gluckman attaching copy of letter from HDC to Eaton requesting immediate "termination settlement" for forwarding to K. Idonije | 08/12/04 |
| 333 | Wiseman | 202 | 8/23/02 e-mail from G. Wiseman to K. Idonije re: receipt of letters from Eaton and Dicastomex terminating each other and requesting conference call to discuss settlement of matter | 08/12/04 |
| 334 | Wiseman | 203 | 8/30/02 fax from H. Gluckman to A. Yeycer re: Dicastomex agreement with Callen Die Casting relating to Eaton equipment | 08/12/04 |
| 335 | Wiseman | 204 | 9/8/02 e-mail from G. Wiseman to H. Gluckman re: G. Wiseman not an unbiased witness as his is on H. Gluckman's side | 08/12/04 |
| 336 | Wiseman | 205 | 8/16/02 e-mail from K. Idonije to H. Gluckman providing H. Gluckman the address for forwarding tape of settlement discussion | 08/12/04 |
| 337 | Wiseman | 206 | 12/14/03 e-mail from G. Wiseman to H. Gluckman providing H. Gluckman with e-mail's and indicating that he is on the same team as G. Wiseman | 08/12/04 |
| 338 | Wiseman | 207 | 11/23/03 [correct date?] memo from G. Wiseman to H. Gluckman re: game plan for '308 PVE housings and indicating of need to get parts correct for next shipment | 08/12/04 |
| 339 | Wiseman | 208 | 11/7/02 e-mail from G. Wiseman to H. Gluckman re: Nebraska Die Casting blackmail of Eaton and HDC – Eaton project summary | 08/12/04 |
| 340 | Wiseman | 209 | 7/21/01 e-mail from G. Wiseman to L. Garfias re: going forward plan for moving Eaton's die cast work from Nebraska Die Casting and Callen Die Casting to Mexico | 08/12/04 |
| 341 | Hetrick | 1 | 4/22/02 IQP warrant and action plan for final approval for Nebraska Die Casting | 08/23/04 |
| 342 | Hetrick | 2 | 6/16/00 Eaton deviated material report for Part No. 422308 | 08/23/04 |
| 343 | Hetrick | 3 | 8/21/02 Letter from Eaton to Dicastomex and Marketwise Associates terminating sourcing contract between Eaton and Dicastomex | 08/23/04 |
| 344 | Hetrick | 4 | 2/18/02 e-mail from G. Hetrick to K. Idonije attaching pictures of Dicastomex castings showing a direct leak path | 08/23/04 |

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| 345 | Hetrick | 5 | 2/19/02 e-mail from G. Hetrick to P. Wayne, K. Idonije and M. Miller re: constant problems with Dicastomex castings with respect to quality of parts and tardy deliveries and suggestion that Eaton has bent over backwards to help Dicastomex produce a quality product | 08/23/04 |
| 346 | Hetrick | 6 | 6/17/02 fax from K. Idonije to G. Hetrick re: Dicastomex's scorecard - individual supplier performance rating with Eaton | 08/23/04 |
| 347 | Hetrick | 7 | 4/10/02 e-mail from M. Miller to J. Cossa re: tracking Dicastomex's progress with 422308 PVE housing on the required IQP Action Plan format | 08/23/04 |
| 348 | Hetrick | 8 | 8/21/02 fax from J. Clark to K. Idonije attaching copies of DMR's for Dicastomex covering 422308 PVE housings including porosity problems and missing chamfer | 08/23/04 |
| 349 | Hetrick | 9 | 6/5/02 e-mail from S. Kothari to J. Hein and S. Gilber re: problems with Dicastomex again and suggestion that Eaton take a firm stand. | 08/23/04 |
| 350 | Hetrick | 10 | 7/8/02 e-mail from G. Hetrick to R. Hofmeier and others re: request to run a report on Dicastomex and indicating that problems started 11 months ago with nothing but problems | 08/23/04 |
| 351 | Hetrick | 11 | 2/18/02 e-mail from R. Raney to G. Hetrick re: issues with Dicastomex PVE housings | 08/23/04 |
| 352 | Hetrick | 12 | 5/30/02 e-mail from G. Wiseman to H. Gluckman re: Eaton not assembling pumps currently because of a field recall | 08/23/04 |
| 353 | Moulton | 1 | 10/25/00 e-mail from R. Johnson to G. Wiseman re: planning for Eaton's visit to view Mexican sourcing options | 08/25/04 |
| 354 | Moulton | 2 | 7/5/00 Report of Visit to Eaton plant in Hutchinson | 08/25/04 |
| 355 | Moulton | 3 | 12/12/00 memorandum from M. Carpenter and others to P. Johnson re: summary of Eaton's trip to potential sources in Mexico | 08/25/04 |
| 356 | Moulton | 4 | Undated notes re: summary of Eaton's trip to targeted suppliers in Mexico | 08/25/04 |
| 357 | Moulton | 5 | 8/14/01 e-mail from J. Moulton to K. Idonije re: summary of Dicastomex meeting at Eaton's Hutchinson plant | 08/25/04 |
| 358 | Hofmeier | 1 | Undated memo titled "Die Casting Consolidation Project" for Eaton's Hutchinson, Kansas Plant | 08/26/04 |
| 359 | Hofmeier | 2 | 5/15/00 - 3/6/03 Eaton inspection record summary for 928598 housing | 08/26/04 |
| 360 | Kothari | 1 | 4/22/02 IQP warrant and action plan for final approval for Nebraska Die Casting | 08/26/04 |
| 361 | Turner | 1 | 4/14/04 report of R. Tuner HDC's expert witness | 09/13/04 |
| 362 | Turner | 3 | Documents reviewed and considered by R. Turner in the <i>HDC v. Eaton</i> matter | 09/13/04 |
| 363 | Turner | 4 | 8/10/01 e-mail from G. Wiseman to H. Gluckman and additional documents reviewed and considered by R. Turner. | 09/13/04 |
| 364 | Turner | 5 | Undated handwritten notes re: QAS quality control and casting process | 09/13/04 |
| 365 | Turner | 6 | 4/14/04 letter from Turner and Nemeth to H. Gluckman re: agreement for services | 09/13/04 |
| 366 | Turner | 7 | 7/2/04 report of R. Vondra - Eaton's expert witness | 09/13/04 |

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| 367 | Turner | 8 | 4/15/04 invoice from Turner & Nemeth, LLC for preparation of expert report | 09/13/04 |
| 368 | Vondra | 1 | 3/30/00 Sourcing Contract by and between HDC and Eaton | 10/13/04 |
| 369 | Vondra | 2 | 7/2/04 report of R. Vondra – Eaton's expert witness | 10/13/04 |

| <i>Plaintiff's Trial Exhibit No.</i> | <i>Bate Stamp No.</i> | <i>Description</i> |
|---|------------------------------|---|
| 370 | Eaton Bates 1488-1681 | Deviated Material Reports for NAC {Produced on October 2, 2004, after depositions concluded although requested in document demand.} |
| 371 | Eaton 1374-1387 | (designated confidential) Inspection records for Eaton |
| 372 | HDC 02560 | Quote re leak tester |
| 373 | Eaton 0748 | Letter from K. Hurston to H. Gluckman |
| 374 | HDC 02016-02017 | Email from H. Gluckman to Jim Akin re die |
| 375 | HDC 02624 | Letter D. Crowe to D. Thomas re die |
| 376 | EAT 0750-0752 | Letter H. Gluckman to R. Johnson re tooling quote |
| 377 | EAT 0053 | Mexican Supplier Development for Machining Castings |
| 378 | EAT 0246-0248 | HDC meeting notes |
| 379 | Def. Gluckman 14 | Accounting statement |
| 380 | HDC 02989-02992 | Termination letter from Eaton |
| 381 | HDC 02993-02998 | First article reports |
| 382 | Eaton 1472-1487 | Hutchinson Supplier Performance Reports |
| 383 | Eaton 0676 | Email Niven Hunter to Ron Schnur re Diecastomex |
| 384 | Eaton 0397 | Email Hetrick to Wiseman re Diecastomex |
| 385 | Eaton 0533 | Email Casey to Hetrick re PVE Burst Tests |
| 386 | Eaton 0966-0969 | Email from R. Schnur to Idonije (2/18/02) |
| 387 | Eaton 0738 | Email R. Hester to Ralph Johnson |
| 388 | Eaton 001789 | Email G. Wiseman to H. Gluckman re porosity spec. |
| 389 | HDC 02130-02137 | HDC Porosity Spec. |
| 390 | Eaton 0240-0243 | Letter Wiseman to Gluckman re Eaton Program |
| 391 | Eaton 0738 | Email R. Hester to R. Johnson re drop in demand |
| 392 | HDC 02276 | Memo Wiseman to Gluckman re letter to Eaton (8/21/02) |

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| 393 | Eaton 0577, 0578, 0585 | Memo from J. Clark to Paul Moore (Feb. 2001) |
| 394 | HDC 00006 | Note to G. Wiseman re payments |
| 395 | HDC 0007-8 | Recap on interest on bank notes |
| 396 | HDC 02352 | Houston quote sheet |
| 397 | HDC 04837-04850 | Texas State Bank loan documentation |
| 398 | HDC 04851-57 | Texas State Bank Loan Agreement |
| 399 | HDC 02005 | Loan application |
| 400 | HDC 02000-020002 | Letter of Intent for Okuma Machine |
| 401 | HDC 00005 | Expense list for equipment |
| 402 | HDC 00001 | Letter from R. Johnson to H. Gluckman 9/21/00 |
| 403 | HDC 02287 | Eaton customer history 12/31/02 |
| 404 | HDC 00765-00777 | Copy of sourcing contract |
| 405 | HDC 02012-13 | Purchase order for Okuma equipment |
| 406 | HDC 02162 | Notes re sourcing contract |
| 407 | HDC 02158-2159 | 8/21/02 demand letter |
| 408 | HDC 02029 | Note from Gluckman to Texas State Bank 9/22/00 |
| 409 | HDC 02179 HDC 0182 | Email Wiseman to David Ling |
| 410 | HDC 02182 | 2/99 Project Pricing Sheet |
| 411 | HDC 0165-02167 | Representation Agreement for G. Wiseman |
| 412 | HDC 02168-02170 | Letter from Wiseman to Gluckman, 5/28/99 |
| 413 | HDC 02330 | Feb 19, 01 pricing sheet |
| 414 | HDC 02331 | Feb 19, 01 pricing sheet |
| 415 | HDC 02323 | Houston quote to Eaton |
| 416 | HDC 02252-02257 | Email Wiseman to Crowe |
| 417 | HDC 02224-02226 | 1/30/00 Proposed Eaton Pricing |
| 418 | HDC 02215-02218 | Email 1/27/00 re drop in volume |
| 419 | HDC 02485-02500 | 3/13/01 price quote |

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| 420 | HDC 03529 | Email Wiseman to Gluckman re PPAP submissions |
| 421 | HDC 03103 | Eaton Project Summary |
| 422 | HDC 03334 | Part Drawings |
| 423 | HDC 03335 | Part Drawings |
| 424 | HDC 01792 | Email Hetrick to Diecast re porosity spec. 11/02/01 |
| 425 | HDC 01706 | Email Gluckman to Akin re Eaton 422290 8/2/2000 |
| 426 | HDC 01700-01703 | Email Gluckman to Rushing re Die Casting Dies 10/18/01 |
| 427 | HDC 01695 | Email Gluckman to Akin re 42290 11/9/2000 |
| 428 | HDC 01697 | Email Gluckman to Akin in re Die Drawing Review 11/9/2000 |
| 429 | HDC 01698 | Email Gluckman to Akin re Drawings for dies 11/2/2000 |
| 430 | HDC 01660 | Email Gluckman to Clark re part 42290 |
| 431 | HDC 01673 | Email Gluckman to D. Thomas re Eaton 422290 4/6/01 |
| 432 | EAT 0750-0752 | Letter Gluckman to R. Johnson 6/7/00 |
| 433 | EAT 0216 | Letter K. Hurston to Benito Gritzewsky re Mexican Project |
| 434 | HDC 02362 | Part drawing |
| 435 | HDC 02507 | Part drawing |
| 436 | HDC 02065-26 | Email Gluckman to Hester re Terms and Conditions 3/8/2001 |
| 437 | HDC 0229-231 | Part Quote 2/19/2001 |
| 438 | Eaton 0132-0144 | GE Capital Presentation re Commercial Equipment Financing |
| 439 | Eaton 0323-0325 | 11/6/00 assessment of Diecastomex plant |
| 440 | Eaton 0054-55 | Letter Preston to R. Johnson re Okuma Project |
| 441 | Eaton 0073 | 9/11/2000 letter from Johnson to Dick Boyle re Okuma machines |
| 442 | | NADCA Product Specification Standards for Die Casting Revised for 2000 4th Edition, Published by the North American Die Casting Association. |
| 443 | HDC 01792 | Email Hetrick to Diecast re porosity spec. 11/02/01 |
| 444 | HDC 01706 | Email Gluckman to Akin re Eaton 422290 8/02/2000 |
| 445 | HDC 01700 – 01703 | Email Gluckman to Rushing re Die Casting Dies 10/18/01 |
| 446 | HDC 01695 | Email Gluckman to Akin re 42290 11/09/2000 |
| 447 | HDC 01697 | Email Gluckman to Akin in re Die Drawing Review 11/09/2000 |

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| 448 | HDC 01698 | Email Gluckman to Akin re Drawings for dies 11/02/2000 |
| 449 | HDC 01660 | Email Gluckman to Clark re part 42290 |
| 450 | HDC 01673 | Email Gluckman to D. Thomas re Eaton 422290 4/6/01 |
| 451 | EAT 0750 -0752 | letter Gluckman to R. Johnson 6/7/2000 |
| 452 | EAT 0216 | letter K.Hurston to Benito Gritzewsky re Mexican Project |
| 453 | HDC 02362 | part drawing |
| 454 | HDC 02507 | part drawing |

Respectfully submitted,

\s\ John E. Schiller
John E. Schiller (#0024677)
Walter & Haverfield LLP
The Tower at Erieview
1301 East Ninth St., Suite 3500
Cleveland, OH 44114
(216) 781-1212
(216) 575-0911 (Fax)

Attorney for Plaintiff,
Houston Die Casting Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Plaintiff's Trial Brief* has been served via electronic mail this 25th day of February, 2005 upon:

Jose C. Feliciano, Sr.
Mathew B. Beredo
Baker & Hostetler
3200 National City Center
1900 East Ninth St.
Cleveland, OH 44114

\s\ John E. Schiller
John E. Schiller